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# Justice as a Family Value:

## How a Commitment to Fairness is Compatible with Love

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**Abstract:** *Many discussions of love and the family treat issues of justice as something alien. On this view, concerns about whether one's family is internally just are in tension with the modes of interaction that are characteristic of loving families. In this essay, we challenge this widespread view. We argue that once justice becomes a shared family concern, its pursuit is compatible with loving familial relations. We examine four arguments for the thesis that a concern with justice is not at home within a loving family, and we explain why these arguments fail. We develop and defend an alternative conception of the justice-oriented loving family, arguing that justice can—and, for the sake of justice, should—be seen as a family value.*

### I. INTRODUCTION

Families are regularly confronted with questions of justice. Some of these questions are raised by major decisions, such as whether the entire family should move so that one member can accept a job offer or so that one of the children can attend a special-needs school; whether one of the parents (and *which*) should work part-time after the birth of a child; or how to balance the interests of siblings of different ages. Other issues of justice arise from everyday contexts of choice, such as who is going to get up in the middle of the night to comfort a sick child.

Families are typically reluctant, however, to treat these questions as matters of justice. They tend to downplay the need to do so, on the assumption that this would introduce considerations that are alien to family life as such.<sup>1</sup> In academic discussions of the family, the view is widespread that an explicit concern with justice is in tension with (or even undermines) the kinds of concerns that are characteristic of loving families. Conservative commentators who worry about a “decline of the family” often [page 321] criticize feminist calls for greater justice within the family by arguing that this would deprive families of their distinctive loving character. They tend to view proposals for intrafamily justice as requiring family members to act like amateur lawyers antagonistically negotiating the terms of their cooperation (Blankenhorn 1990; Scruton 2006, ch. 5). But the view that the family is a sphere above or beyond justice is by no means restricted to conservative circles. Many of those criticizing injustice within the family view it exclusively as a result of the wider societal phenomenon of injustice, in particular of gender inequality. They assume that overcoming injustice outside the family would allow families to operate as they ideally would, namely, on the basis of affection, generosity, and other values that are said to be distinct from and incompatible with acting from a commitment to justice. As one representative of this position has put it, “Society must be made just, so that the family need not be” (Penrose 2000, 219; cf. Munoz-Darde 1999, 55).

Our aim in this paper is to argue, against this widespread view, that a concern with justice can—and, ultimately, for the sake of justice, should—serve as a “family value,” and that this need not threaten the possibilities for a loving family. A concern with intrafamily justice is

compatible with loving familial relationships if it becomes a *shared concern of the family as such*, that is, if families come to understand themselves as oriented toward justice.

The significance of the *self-understanding* of family members as jointly committed to just relationships has not sufficiently been acknowledged in discussions about justice, gender, and the family. Those discussions tend to focus on the way in which family structures perpetuate social injustice (Archard 2010) and on the failure of many political theorists to include the structure of the family in the core of their theory (especially in the wake of Okin 1989). Authors discussing the question of how to promote intrafamily justice usually move straight to the question of legitimate state intervention (for example, Munoz-Darde 1999; Landes and Nielsen 2012). Even those theorists who propose specific criteria for internal family justice (for example, Hampton 1993; Radzik 2005) have not addressed explicitly the role of the *self-conception* of the family for realizing justice.

Showing that there are ways of being committed to justice as an *internal* component of family life may help to remove one more hurdle on the road to reducing persistent injustices within families. As we shall explain below, assumptions about the inappropriateness of raising questions of justice generate blind spots and inertia regarding significant and often unintended inequality among family members, inequality that disadvantages women and girls in particular. This is not to say that it will be sufficient for achieving intrafamily justice to have justice serve as a family goal. But an exclusive focus on the legitimacy or desirability of state regulation and intervention fails both to address a significant source of intrafamily injustice and to recognize an important strategy for reducing it. By dispelling the perceived tensions between a commitment to justice and to a loving family life, we aim to help remove one more barrier to realizing justice within the family.<sup>2</sup>

For the purposes of this paper, we understand the notion of the “family” to include both traditional and nontraditional household or kinship arrangements in which [page 322] family members (old enough to do so) regard themselves as a family. We will use the term “loving family” to refer to a widespread conception of how family members are expected to interact, a conception that has emerged historically and currently plays a central role in the debate about the role of justice in the family. Core elements of this conception, to be spelled out in more detail below, involve family members taking themselves to be part of a special relationship to particular others, acting on the basis of affection, and sharing a concern with the long-term well-being of the family as a whole. This understanding of the loving family is central to families of different forms, including blended families, so-called “nuclear” families, extended families, and kinship networks (Stack 1974; Stacey 1998). Not everything typically labeled a “family” is or aspires to be a “loving” family, as when members of a family see marriage primarily as an economic relation and children primarily as a source of cheap labor. When this conception of the loving family is held to be something to which families aspire, however, a concern with justice is typically not regarded as reconcilable with this ideal.

The notion of justice we will be referring to in this paper is a broadly liberal-egalitarian conception, because that is the conception of justice most often characterized as problematic in the context of loving relationships. Within the tradition of liberal egalitarianism, there are of course different ways to specify what exactly is meant by and required for justice, but we will not further specify them here, since our argument is neutral with regard to both the type of justification of normative obligations and the specifics of what justice requires concretely. Our argument applies to Kantian as well as consequentialist versions of liberal egalitarianism, and it holds for the view that justice requires an equal distribution of benefits and burdens, as well as for the view that justice requires equal consideration of every individual’s freedom, needs, and interests.

We begin by sketching a widespread set of claims about how a focus on justice would necessarily undermine love in a family. We then describe four typical ways of conceptualizing the alleged opposition between love and justice (section II) before describing the “justice-oriented loving family” as an alternative approach in which families see justice as an integral feature of their family life (section III). We subsequently discuss in more detail four arguments for the thesis that a concern with justice has no place within a loving family, and explain why these arguments fail (section IV). Members of a justice-oriented loving family can *care* about whether they treat one another justly, without having to fear that this will undermine their loving relationships.

## **II. FOUR CONCEPTIONS OF THE ALLEGED OPPOSITION BETWEEN LOVE AND JUSTICE IN THE FAMILY**

When love and justice are seen as conflicting, this is usually because they are understood as belonging to different spheres, one private and the other public. In the public domain of political and economic relations, justice is understood to provide a [page 323] principled, abstract, and impersonal basis for adjudicating disputes and clarifying rights and obligations. In the sphere of the loving family, by contrast, interactions are said ideally to be immediately responsive to the needs of particular loved ones and motivated by affectionate feelings for them. On this model, the principles of justice that are recognized as holding generally between individuals are to be suspended or restricted within families. Although we disagree with this last claim, we take ourselves to be in broad agreement with a widespread characterization of the loving family that can be summarized in terms of three distinctive features: a special relation to particular others, interaction on the basis of affection, and a shared concern with the long-term well-being of the family as a whole. These features are prominent in popular culture, social commentaries, and academic discussions, certainly among those who argue that love conflicts with justice. What we contest is not this characterization, but a further assertion, namely, that these characteristics are incompatible with acting on principles of justice, acting for the sake of justice, or asserting individual interests. First, it is often asserted that applying universal and impartial principles of justice within the family would signal a lack of the special care for one’s loved ones that is distinctive of loving family relationships. Second, because familial love involves acting on the basis of affection, this is thought to mean that doing something for a loved one out of a sense of obligation is incompatible with genuine affection and care. Third, familial love involves a concern with the well-being of the family as a whole and with the needs of others as its members. Conceptualizing the family as a community is thought to entail that individual interests and claims of justice ought to take a back seat, on the assumption that these involve antagonistic negotiation and scorekeeping.

Given these three assertions about what a genuinely loving family relationship entails—and what it rules out—an active and explicit concern with intrafamily justice appears out of place or even harmful in a loving family context. Before we discuss our alternative conception (in section III) and address the three assertions in full (in section IV), however, it is useful first to distinguish four ways of understanding the allegedly tense relationship between love and justice in the family, for there are different ways in which this alien character of claims of justice is articulated in relation to the loving family.

### ***A JUSTICE-ORIENTATION AS A THREAT TO THE LOVING FAMILY***

One way of viewing the opposition between love and justice is as a standoff between a vulnerable world of familial love and an encroaching, impersonal world outside— such that resisting the impersonal logic of justice is required to preserve the family as a domain of love. This conception of justice as a threat to the loving family is a crucial presupposition of

much of the conservative “decline of the family” rhetoric. Here, the relation of the outside world to the family is presented in the language of a military siege of protected havens (Popenoe 1988; Lasch 1977; Wilson 2002). Critics assert that allowing justice-based claims to enter into the family’s interactions will [page 324] lead to a “breakdown of the family,” because the cold egoism of negotiated arrangements threatens to replace the love that sustains family bonds. They see the gender-justice critique of the family as a symptom of this general trend, with marriage increasingly reduced to a contract between self-interested individuals who abandon the family as soon as the personal payoff declines (Bellah 1990; Blankenhorn 1990; Scruton 2006, ch. 5).

Even writers who are acutely aware of the history of sexual oppression (and the role of the family in it) frequently regard justice as a threat to a loving relationship, on the grounds that the “essence” of family life lies above or beyond justice. On this view, justice is not among the values that should govern family life; rather affection and benevolence are called for, and insisting on justice is not only out of place but detrimental. Consider the following passage from Michael Sandel:

*If, out of a misplaced sense of justice, a close friend of long standing repeatedly insists on calculating and paying his precise share of every common expenditure, or refuses to accept any favor or hospitality except at the greatest protest and embarrassment, not only will I feel compelled to be reciprocally scrupulous but at some point may begin to wonder whether I have not misunderstood our relationship. The circumstances of benevolence will to this extent have diminished, and the circumstances of justice grown.... Since the exercise of justice in inappropriate conditions will have brought about an overall decline in the moral character of the association, justice in this case will have been not a virtue but a vice. (Sandel 1982, 35; see also Udovicki 1993; Penrose 2000; and the qualified defense in Beckman 2001)*

The implication for familial relationships, which Sandel explicitly sees as parallel to this example of friendship, is that the “exercise of justice” is detrimental.

### **JUSTICE AS A FALLBACK SYSTEM**

A second conception of the relation between love and justice in the family agrees with the first approach but asserts that principles of justice and appeals to individual rights may nevertheless serve as a protective shell that *surrounds* family life. Although the loving family is ideally guided by intimacy and affection, when these break down, rights and principles of justice provide a fallback arrangement. Justice thus provides the safety net for the high-wire act of marriage and family. The marriage contract, for example, establishes the ground rules regarding mutual support and other obligations of the spouses toward each other and toward children, which become crucial, say, in the event of a divorce.

On this approach, claims of justice are given an important role, but the contrast between love and justice remains sharp. For this conception is premised on claims of justice belonging essentially to contexts of malfunction and breakdown. On this view, when family members appeal to justice or rights, they imply that there has been a [page 325] breakdown of affection. So when one spouse claims that it is his or her turn to be relieved of childcare or domestic duties, for example, this marks, as Jeremy Waldron once said, “the opening of hostilities” and the acknowledgment that “the other warmer bonds of kinship, affection, and intimacy can no longer hold” (Waldron 1993, 373).

### ***JUSTICE AND LOVE AS EQUALLY NECESSARY BUT TRAGICALLY IN TENSION***

A third approach acknowledges the importance of admitting claims to justice into the private domain but still regards these as external demands that are brought to bear on the inner life of the loving family. The demands of justice and love are regarded as being in tension, without it being appropriate to eliminate either. On the view we have in mind here, defended for example by Axel Honneth, the normative orientations of love and justice “continually collide” (Honneth 2007a, 155), and loving families must repeatedly attempt to work out “where to set limits to the applicability of universal principles of justice” (Honneth 2007a, 160; cf. Scheffler 1997). As Honneth puts this, however important the demands of justice are, they must be handled with care, because in meeting them we “risk promoting the tendency of a pathological deformation of love within the family by subjecting it to a normativity that is foreign to [love]” (Honneth 2007b, 358). On this view, family members must somehow live with the tragic fact that love and justice are radically separate ideals with their own different and irreconcilable requirements.

### ***THE LOVING FAMILY AS A THREAT TO JUSTICE***

Finally, there are those who regard the traditional conception of the loving family as a threat to justice, rather than the other way around. From this perspective, the alleged special status of the loving family serves to block public scrutiny and elimination of the injustices that are endemic to the institution of the family, including domestic violence, exploitation, favoritism, severe inequalities among siblings, and a gendered division of burdens and benefits. These theorists argue that the solution to problems of injustice between family members lies entirely in state regulation and intervention (Card 1996; Munoz-Darde 1999; Landes and Nielsen 2012; and Zurn 2012). Implicit in their argument is the assumption that the promotion of justice will have to come entirely from *outside* the family. In other words, the pursuit of justice is treated as something wholly alien to the loving family itself. This sharp separation between the state’s task of securing justice and the family’s role as a site of affectionate relationships is reflected in Veronique Munoz-Darde’s statement that “[i]f political institutions fulfil their impartial role, the family can then be the realm of the genuinely affectional” (Munoz-Darde 1999, 55).

Despite the marked differences among these four ways of understanding the relationship between justice and love, they have in common that they do not regard a [page 326] concern with justice as something that can be integrated into the life of a loving family.<sup>3</sup> Even those who find it important to “*apply*” principles of justice to the family, or who seek the solution to the problem of intrafamily injustice exclusively in state action, betray an understanding of the family as organized around something *other* than justice, such that justice needs to be *brought to bear on* the family, from the outside as it were. They share the view, in other words, that a family can be oriented toward justice only by departing from or suspending the ideal of a loving family.

We would like to argue that if justice is conceived as the object of a *joint pursuit* by family members it is possible to integrate the concern with justice within a loving family’s practical self-understanding. *Pace* the approaches just discussed, families can be oriented toward intrafamily justice without having to make sacrifices regarding their attachment to one another as the particular persons they are, or having to give up acting on the basis of their affection for one another, or having to renounce caring about the family as a whole. Nor do the demands of justice need to be watered down or “limited.” The key to the integration of the pursuit of justice into the life of a loving family, we argue, lies in making justice into a shared concern that lies at the heart of the loving family’s self-conception. Once this move is made, raising claims of justice can be understood not as a departure from the ideals of a loving family but as part and parcel of realizing an ideal that is endorsed and pursued wholeheartedly and jointly by family members.<sup>4</sup>

### **III. JUSTICE-ORIENTED LOVING FAMILIES**

When explicit decision-making within families is discussed in the literature, it is usually described in terms of “negotiation” or “bargaining” between individuals rather than in terms of joint deliberation among family members who see justice as a shared goal. If a commitment to justice is understood exclusively in terms of egocentric, contractual negotiations, it is indeed hard to see how it fits with a loving, affectionate relationship. But if discussions regarding justice are seen as part of a family’s shared commitment to justice then they may well unite family members instead of dividing them. The four models mentioned above fail to recognize that the apparent tensions between love and justice can be superseded by making justice a joint family aim.

What, then would a justice-oriented, loving family look like? Three features suggest themselves as central components: a self-understanding as a loving family committed to justice; an alertness to the dynamic character of family members’ needs and abilities; and an acknowledgment of human limitations and thus the practical need for justice-promoting structures and processes.

First, as we already mentioned, justice can become a family value only when family members see the realization of justice within their family as a shared, cooperative, and intentional enterprise. This is the case when they regard it as their *joint aim* to promote justice in their relationship. For example, spouses would no longer regard the moral requirement of just domestic arrangements as a demand imposed from [page 327] outside the family. Rather, they would see it as something that flows from their own joint commitment.

Within a justice-oriented loving family, a spouse who points out that it’s her “turn” (to be relieved of childcare, say, or to pursue a career opportunity) need not thereby be making a hostile move or implying a lack of affection and intimacy. For one thing, if both spouses find it important to arrange matters justly, the other may actually appreciate having this pointed out (as in, “I’m glad you told me”). Involuntary oversight, lapses of attention, or temporary insensitivity may call for correction. And, however unpleasant it might be to have one’s failings pointed out, such corrections can be understood as part of the shared pursuit of a just and loving family.

Second, a concern with justice is necessarily an ongoing, dynamic concern. What is a just arrangement *now* may become unjust at another point in time. Circumstances change, as do the aspirations, needs, and abilities of family members. The question of what justice requires is one that must be posed again and again. Therefore, justice cannot be realized without *recurrent* reflection on basic family arrangements and on the way family members are treating one another.

The third key aspect of a justice-oriented family derives from the recognition of human limits—limits of mood, attention, time, energy, memory, and so on. Because of these, it may be necessary to introduce ways of keeping track of how household and childcare tasks are distributed, how different siblings are treated, and so on. Given how difficult and emotionally charged it can be to even pose questions regarding fairness, it may help to establish structures in which these questions are automatically raised. For example, tracking the hours spent on household chores can be especially important when spouses have divergent intuitions about how much of the “second shift” each is doing and they wish to divide things evenly. This explicit accounting might initially seem antithetical to a



loving relationship. It need not be regarded as problematic, however, if it reflects their own insight into what is needed, given a realistic assessment of psychological limits, for realizing their joint aim of dividing household tasks evenly.

Interestingly, a justice orientation is rarely questioned with regard to the interaction either among siblings or between parents and children. Good parenting is widely thought to involve fairness—in the distribution of allowances and candy, in attention to special needs, in comparisons of achievements, and so on, without this being seen as detrimental to love. In sitcoms and children's stories, explicit favoritism toward one child is presented as clearly problematic, no matter how spontaneous or affectionate the parents are. This is one sense in which families are expected to be "schools of virtue," in which children learn to treat others with respect and fairness. In this context, it is often recognized that an emphasis on justice within the family relationship need not imply any absence of parental or sibling love. Think of a case in which a mother is the referee for her daughter's hockey game and has the opportunity to benefit the team by calling an undeserved foul on a player from the opposing team. It is not usually seen as a betrayal of love or as detrimental to their relationship if the mother refrains from favoring her child in this way. Furthermore, when adult siblings face questions of how to divide the care for their aging parents, [page 328] they attach great importance to fairness (Jecker 2002). There is no widely shared aversion to introducing considerations of justice in such cases.

Nevertheless, the role of justice is still seen as controversial when it comes to the general ideal of the loving family, and perhaps especially with regard to interaction between spouses. An example like the one mentioned earlier, of a couple tracking the hours they contribute to the "second shift," tends to evoke visceral negative reactions. But given the structural similarities of the cases, there is no good reason for reactions here to be so much more negative than in the cases of parent-children and sibling-sibling interactions.<sup>5</sup>

#### **IV. HOW JUSTICE FITS THE FAMILY**

This characterization of a justice-oriented family may still give rise to several worries, however. In this section, we consider four lines of argument that suggest that its focus on justice is incompatible with the mode of interaction of a loving family. In each case, we show that the argument fails.<sup>6</sup>

##### **PARTICULARITY**

One important worry is that, in doing something for loved ones because justice demands it, one thereby fails to acknowledge their particularity. Considerations of justice are phrased in terms of general or universal principles, whereas one's relationship to loved ones is personal and specific, and therefore, so it is sometimes claimed, acting for the sake of justice fails to recognize the particularity of loved ones (Hardwig 1990, 55–56).

As an initial response, we would like to point out that this worry arises only if one fails to distinguish between the formulation of general principles of justice, on the one hand, and their application in specific situations, on the other. The fact that a principle is formulated in general terms does not mean that we have to abstract from the particulars of the people involved when we apply the principles in specific situations and toward particular family members. Unless one defends an extreme view of justice as a mathematically even distribution of benefits and burdens—regardless of any of the properties, needs, and desires of those affected—determining what is just requires attending to the very specific traits, desires, interests, and needs of family members. Consider the example of job-related family relocation to a big city. If financial survival and the existence of other options



leave the family some choice, it is relevant to know the details regarding how personally important this job is, what the different family members value (more income, life in a city, life in the countryside, proximity to extended family, and so on), for them to work out a just solution. Although different conceptions of justice will handle the example differently, they will not abstract from the uniqueness of the family members involved or from other relevant details of their relationship.

[page 329] But would aiming at justice make the relationship to particular loved ones somehow less *loving*? Bernard Williams famously claimed that a man who decides to save his wife instead of a stranger from drowning, and whose thought is “that it was his wife and that in situations of this kind it is permissible to save one’s wife,” has “one thought too many” (Williams 1981, 18). By extension, one might worry that bringing considerations of justice into the family, even turning justice into an explicit goal of a loving family, would make this problem endemic. If, as Williams believes, the rescued wife has reason to be disappointed, the members of justice-oriented families would constantly have reason to feel that their love was diminished by their concern with justice.

The success of Williams’s argument depends on the assumption that there are no circumstances in which acting out of direct concern for one’s loved one would be committing a serious moral error. Our earlier example of a referee who refrains from unfairly giving advantage to her daughter points to precisely this possibility, however. The fact that such cases exist at all means that one ought to be alert to the possibility that partiality might not be permissible. In reply to Williams, then, one could say that a refereeing mother who intentionally disadvantages the opposing team out of love for her daughter has *one thought too few*. Out of love for her daughter, she wishes to help her win, but she fails to realize that in situations of this kind it is not permissible to be partial toward one’s daughter. For Williams’s “one-thought-too-many” argument to count against the idea of a justice-oriented family, it would have to be the case that even considering the possibility that it might be wrong, in a particular situation, to help a loved one, should be out of the question. Williams’s lifesaving husband may, in fact, have exactly what a biased referee would be lacking, namely, a sound sense of justice (alongside a strong desire to save his wife). If your spouse strongly desires to rescue *you* because he or she loves *you*, and if he or she is aware of the fact that it is permissible to do so, there is nothing to be disappointed about. The alternative is to claim that true lovers cannot have a moral conscience.

## **AFFECTION**

But, one might still object, what if family members act merely out of duty instead of out of love? Would that not be disappointing? Much of the resistance to permitting claims of justice to play a role within the family stems from an understanding of love as requiring acting on spontaneous and immediate affection. Justice requires being motivated by a set of impersonal principles and obligations, and, it is thought, doing something for a loved one out of a sense of obligation may even undermine the relationship. For example, John Hardwig claims that doing something for a loved one out of a sense of obligation “taints” the act and makes it “perhaps even unacceptable.” He continues: “In fact, my responsibilities in personal relationships cannot be fulfilled out of a sense of obligation without seriously undermining the whole relationship or revealing thereby that it is not what we had hoped and wanted it to be” (Hardwig 1990, 55). Given that the justice-oriented family envisions its members [page 330] acting on the basis of obligations or a sense of justice at least some of the time, it will soon become a less-than-fully loving family, if this claim is true.

This claim is not usually substantiated with the kind of empirical evidence from psychology that would be required to show that acting out of obligation really does undermine family

relationships. Below we cite some research that in fact shows the opposite. But let us first point out the following. If all the good things one does for one's family members are done only from a sense of obligation and without any accompanying affection, it is unlikely that one loves them. This does not entail, however, that if some acts are done from duty this shows (or leads to) the absence of love. Indeed, insofar as affectionate beneficence for another is threatened by the pull of selfish inclinations, a sense of duty provides an additional resource for transcending the egotism that can undermine both justice and love. There may be times when one is not spontaneously moved by affection to do what loved ones legitimately expect of one and what justice demands, but it would be better, at such times, to perform the action out of a sense of justice than not to do it at all.

Naturally, it would be disappointing if members of one's family always acted merely out of duty and without any spontaneous desire to do so. In such a case, however, the real reason to be disappointed is the fact that the love is gone. Here, it is the absence of love, rather than the presence of motives of justice, that is the true source of the disappointment.

Moreover, it is often underestimated how much thoughtful reflection and self-discipline is required by true love. It is psychologically naïve to claim that when we act out of love we always automatically do what is called for. Spontaneously loving acts can, for example, be suffocating or hurtful. To say that they are thereby not genuinely loving is to miss the point: there is no set of spontaneous emotions that makes one infallible in one's interactions with others, and so love, too, requires vigilance.<sup>7</sup> Just think of the stereotypical husband who buys his wife a vacuum cleaner as a birthday present, even though she—again, stereotypically—is hoping for something more romantic. We can imagine that the husband's motives are loving, but clearly he should have given the matter a bit more thought. Would he have been less loving if he had been less spontaneous and after much brooding came up with a better gift idea? Surely not. The point, in short, is that love does not make one infallible and that it, too, often calls for screening one's spontaneous impulses. Hence, the fact that considerations of justice may require one to act on motives other than spontaneous affection is no reason to regard justice as incompatible with love.

#### **INDIVIDUAL INTERESTS AND THE FAMILY AS A COMMUNITY**

The ideal of the loving family involves a concern with the well-being of the family as a whole and with the needs of others as its members. A loving family conceives of itself not as an aggregate of individuals, but as a community. It is often thought that this aspect of the family makes it difficult to raise claims of justice within the family, on the grounds that such claims inevitably introduce antagonism and egoism. [page 331] Sandel's description of the friends who refuse to accept gifts from each other is perhaps a caricature, but many find even milder forms of "bean-counting" divisive.

This line of objection depends on question-begging assumptions, however. If one's only model of pursuing justice is negotiation and bargaining, then it is obvious that a focus on justice has to be associated with individualism and self-interest. By contrast, if family members share an orientation toward justice and see this as a *joint pursuit*, they are anything but a set of profit-oriented individuals pursuing their best-negotiated contracts. Realizing justice through joint decision-making, in light of a shared conception of justice, is quite different from egocentric bargaining. The first is a collaborative effort, the second is not. The first can be integrated into a family's self-understanding as pursuing justice jointly as a community, the second cannot. Ironically, when conservatives criticize a justice-orientation for introducing motives that are antithetical to community, they actually reveal themselves to be captives of that very market way of thinking that they believe to be such a threat.

Indeed, it seems plausible to expect that a focus on justice would actually reinforce one's willingness to be generous, since a commitment to justice (like love) is geared toward overcoming egocentrism. And certainly, insofar as a justice-oriented family is a *loving* family, affection provides further motivation for kindness and attention. At the same time, the justice-oriented loving family is alert to the possibility that generosity may fail not only to be fair but also to be fully voluntary and free. As a result of deep-rooted patterns of socialization, for example, women and girls may be more self-sacrificing and feel more uncomfortable than men and boys in sticking up for their own interests. Therefore, every family faces the question as to whether their sincerely felt desires to make sacrifices for the family are authentic and free or the result of gender-biased socialization. Acknowledging this point is not to advocate thoroughgoing suspicions and self-doubt about generosity toward loved ones. Rather, what justice calls for, we suggest, is that the culture within the family *make room* for posing such questions.<sup>8</sup>

In emphasizing shared concerns in this way, we reject a model according to which the family is to be seen as an undifferentiated unity.<sup>9</sup> There is no real loss, however, in recognizing the internal plurality within the family, composed as it is of different individuals with diverse, changing needs and abilities. Acknowledging this differentiation does not leave one with a disjointed set of egocentric individuals maximizing their benefits from cooperation. There is another alternative to the model of the undifferentiated unity: a loving community of family members who aim to be just toward one another.

#### **THE UNINTENDED CONSEQUENCES OF “LETTING IT HAPPEN NATURALLY”**

One final argument is more explicitly psychological in character. Pursuing justice within one's family requires an awareness of differences in interests, preferences, needs, advantages, and relative power—and a willingness to thematize them openly. This is not easy, and it may feel hard-edged or artificial. This gives rise to the worry [page 332] that even if an orientation to justice is compatible, in principle, with love, the kinds of open discussions at the heart of a justice-oriented family are difficult and awkward for many, and that this will tend to destabilize families.<sup>10</sup>

The claim that an increased focus on justice is destabilizing is not substantiated by convincing empirical data, however. On the contrary, a longitudinal study comparing two cohorts of individuals married between 1964 and 1980 and between 1981 and 1997 found that changes in gender relations during this period did not cause an increase in marital discord (Rogers and Amato 2000, 749). More important, research suggests that an explicit focus on fairness in fact improves the well-being of families when compared to families in which this is not present.

Recent studies (focusing on heterosexual couples around the birth of their first child) have shown that explicitly discussing issues of fairness and the distribution of domestic labor increases marital satisfaction and stability. Stephanie Wiesmann and collaborators (Wiesmann et al. 2008; Wiesmann 2010) interviewed couples (both together and individually) while they were expecting their first child, and then again roughly a year after the child's birth. They compared the couples' intended division of labor with the actual resulting division of labor and measured the couples' level of satisfaction with that result. Not surprisingly, Wiesmann found that the vast majority of couples in the study did not discuss their division of labor and fell short of the degree of equality to which they aspired, sliding into traditionally gendered divisions of labor more than they intended to. What is surprising is the explanation that her research suggests. Neither the partners' different income levels nor their attitudes toward gender roles explain their eventual division of labor. What does explain it, according to Wiesmann's analysis, are their decision-making strategies and especially their attitudes toward explicit deliberation. Wiesmann reports that

“[w]hen asked how their division of labor had evolved since they began living together, all couples initially answered that they did not talk much about such issues and that it just happened naturally” (Wiesmann 2010, 52). Even the couples aspiring to an egalitarian division of labor were uncomfortable including explicit decision-making within their romantic relationship. After the birth of their first child, the division of labor in most of these couples became very unequal, and, to their own frustration, much more unequal than they themselves had intended. The majority of couples made many small ad hoc choices that ended up forming one large, “traditional” pattern (due to the “tyranny of small decisions”).<sup>11</sup> By contrast, the few couples who did engage in explicit decision-making (despite their initial reluctance to do so) and who deliberately pursued a more egalitarian division of labor were significantly more successful at reaching their own aims and were more satisfied as a result (Wiesmann 2010, 67–91).

These findings show clearly that the so-called “natural” approach to decision-making that the couples in the study associate with romantic relationships does not automatically lead to the intended outcome when it comes to dividing paid and unpaid work. Moreover, explicit decision-making has significantly better effects. Especially important is that, at least in this study, the decisive difference between couples who succeed in overcoming traditional gendered patterns of division of labor [page 333] and those who fall short (in terms of their own goals) lay in their willingness to engage in explicit decision-making strategies, something the other couples tended to see as running counter to the alleged “natural” form of interacting within a romantic relationship. The assumption that the explicit thematizing of issues of justice has no natural place within the family turns out, here, to be a barrier to reaching justice in family relationships. Not only does it diminish couples’ ability to reach their own intended division of labor, it also contributes to their sliding, against their will, into traditional, gendered patterns that disadvantage women.

## **V. PROMOTING JUSTICE AS A FAMILY VALUE**

Our focus in this paper has been on defending the claim that being a loving family is compatible with being committed to intrafamily justice. In other words, we have argued that a justice-oriented loving family is a viable *possibility*. But a stronger conclusion follows for anyone who strives for justice: justice *should* become a joint family concern. The family continues to be a site of injustice. One of the central insights of feminism is that a concern with justice should not stop at the entrance to the home. Changes in laws and public policy certainly play a pivotal role in ongoing efforts to eliminate injustice within the family. But one should not neglect the importance of transforming family members’ attitudes toward the pursuit of justice within the family. Our central point is that striving for intrafamily justice need not involve tradeoffs or compromises with regard to loving relationships within families. In working to correct the mistaken impression that one must choose, in one’s relations to other family members, between love and justice, we hope to help clear the way for a wholehearted pursuit of justice *within* loving families.

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## NOTES

1. Evidence of this tendency is documented, for example, in Wiesmann 2010, discussed in section IV.
2. Although we focus here exclusively on the importance of the family members’ self-understanding as committed to striving for intrafamily justice, we agree that realizing justice also requires state regulation and intervention. See, for example, Rawls 1971; Munoz-Darde 1998; Gheaus 2009; and Landes and Nielsen 2012.
3. A similar point holds for the conception of marriage as friendship discussed in Abbey and Den Uyl 2001.
4. This is, of course, compatible with recognizing obligations to strive for justice more generally outside the relationship.
5. Adequately accommodating the diversity within one’s family is clearly an important dimension of justice. Once families are convinced of the importance of justice, they then face the (often difficult) task of determining what justice actually demands in their own case. One important issue that many justice-oriented families will need to address has to do with differences in the capacities and degrees of dependency among family members, particularly with regard to young children and family members with disabilities (Kittay 1999), but also with regard to adolescents’ complex transition to adulthood (Anderson and Claassen 2012).
6. For a discussion of these points with particular reference to marital relationships, see also Kleingeld 1998, 271–76.
7. See Velleman 1999, 355–62. See also Harry Frankfurt’s account of the reflexivity of love and caring: “Insofar as a person loves something, the fact that he cares about it as he does requires that he must care similarly about how he acts in matters that concern it” (Frankfurt 1999, 138).
8. Although we do not advocate strategic bargaining models as models for families to use in pursuing justice, they can play a pivotal heuristic role in bringing to light the de facto differences in expected utilities and relative advantage that may be operating in the background and that need to be addressed explicitly (see, for example, Mahony 1995; Lundberg and Pollak 1996).
9. See Marilyn Friedman’s discussion of “romantic merger” in Friedman 2003. For more on the “union” model of love, see Helm 2010.
10. See also the critical survey in Anderson 2010.
11. On the subtle, unconscious dynamics that must be overcome to achieve goals of joint parenting, see also Mahony 1995.

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